

REMARKS

[0010] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. The status of the claims is as follows:

- Claims 1-6, 8-18, 20-25, 27, and 28 were pending
- Claims 7, 19, and 26 were previously canceled
- Claims 6, 14, 23, 24, 27, and 28 are canceled herein
- Claims 1, 8, 13, 21, 22, and 25 are amended herein
- Claims 1-5, 8-13, 15-18, 20-22, and 25 are currently pending

[0011] Support for the amendments to claims 1, 13, 21, and 25 is found in the specification at least at page 12, lines 5-8 and Fig. 4, and therefore do not constitute new matter. Claims 1, 13, 21, and 25 are also amended to include subject matter from dependent claims 6, 14, 23, 24, 27, and 28. Claims 8 and 22 are amended to correct minor informalities and for consistency of terminology.

Cited Documents

[0012] The following documents have been applied to reject one or more claims of the Application:

- Logan: Logan et al, U.S. Patent Application Publication No. 2003/0093790
- Safadi: Safadi et al, U.S. Patent Application Publication No. 2001/0051037
- Lees: Lees et al, U.S. Patent No. 7,162,499
- Knudson: Knudson et al, U.S. Patent No. 6,536,041

- Barker: Barker et al, U.S. Patent Application Publication No. 2002/0143976
- Karrs: Karrs et al., U.S. Patent Application Publication No. 2003/0056010
- Vasudevan: Vasudevan et al, U.S. Patent No. 7,028,057
- Marsh: Marsh et al, U.S. Patent Application Publication No. 2004/0003403

Claims 1-5, 8-12, 21, 25, and 27 Are Non-Obvious Over Logan in view of Safadi in view of Lees

[0013] Claims 1-5, 8-12, 25, and 27 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Logan in view of Safadi in view of Lees. Applicant respectfully traverses the rejection.

Independent Claim 1

[0014] In light of the amendments presented herein, Applicant submits that the rejection of independent claim 1 is moot. Specifically, the combination of Logan, Safadi, and Lees does not teach or suggest the claimed, "displaying a listing of previously recorded programs to a user, wherein a one of the previously recorded programs is the live broadcast; receiving updated metadata associated with previously recorded programs that correspond to the displayed listing of previously recorded programs."

[0015] The Office cites Logan, paragraph 0421 as allegedly disclosing "receiving updated metadata associated with the live broadcast". (Office Action dated 10/06/2008, pages 3-4.) Applicant respectfully disagrees. Logan describes that one way to conserve disk space is to record only certain parts of a show by informing the PVR or nPVR ahead of time specifically what to record or what not to record, and Logan also

describes an alternative mechanism which achieves similar results by using metadata to trim the unwanted portions after a recording. (Logan, paragraph 0421).

[0016] Applicant respectfully submits that Logan is silent as to any connection between the updated metadata which is received and a displayed listing of previously recorded programs as recited in Applicant's amended claim 1. In Safadi, "[a] method and apparatus for accurately recording selected events despite the ambiguity of start and end times is described." (Safadi, abstract). Lees discusses "[a] network computer [that] maintains a directory of objects having multi-valued attributes." (Lees, abstract). However, the Office has not shown how Safadi and/or Lees, either alone or in combination, compensate for this deficiency in Logan.

[0017] Consequently, the combination of Logan, Safadi, and Lees does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant respectfully requests that the rejection of this claim be withdrawn.

Independent Claim 21

[0018] In light of the amendments presented herein, Applicant submits that the rejection of independent claim 21 is moot. Specifically, for at least the reasons asserted above with respect to claim 1, the combination of Logan, Safadi, and Lees does not teach or suggest the claimed, "receive a request to display a listing of previously recorded programs; [and] identify metadata associated with content corresponding to previously recorded programs displayed in the listing".

[0019] Consequently, the combination of Logan, Safadi, and Lees does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant respectfully requests that the rejection of this claim be withdrawn.

Independent Claim 25

[0020] In light of the amendments presented herein, Applicant submits that the rejection of independent claim 25 is moot. Specifically, for at least the reasons asserted above with respect to claim 1, the combination of Logan, Safadi, and Lees does not teach or suggest the claimed, “generate a listing of available content based on metadata stored on the storage device; display the listing of available content on the display device; request updated metadata associated with broadcast content that corresponds to the listing of available content displayed on the display device”.

[0021] Consequently, the combination of Logan, Safadi, and Lees does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant respectfully requests that the rejection of this claim be withdrawn.

Dependent Claims 2-5, 8-12, and 27

[0022] Applicant includes elements of claim 27 into independent claim 25 and cancels claim 27 without waiver, prejudice, or disclaimer of the subject matter. Accordingly, the rejection of claim 27 is now moot.

[0023] Claims 2-5 and 8-12 ultimately depend from independent claim 1. As discussed above, claim 1 is patentable over the cited documents. Therefore, claims 2-5 and 8-12 are also patentable over the cited documents of record for at least their dependency from a patentable base claim. These claims may also be patentable for the additional features that each recites.

[0024] For example, claim 5 recites in part **"displaying at least a portion** of the information contained in the updated metadata; receiving a **request to display** all of the information contained in the updated metadata; **and displaying** all of the

information contained in the updated metadata." The Office cites Logan Figs. 4 and 5 as showing this element. (Office Action, page 5). Applicant respectfully disagrees. As the ground of rejection the Office states "[g]iven that Logan teaches receiving updated metadata for recorded content, it would have been obvious to one of ordinary skill in the art that the system could display updated segment titles, lengths, or synopsis according to the updated metadata." (Office Action, page 5). Even assuming for the sake of argument that Logan teaches or suggests displaying updated segment titles, lengths, or synopsis according to updated metadata as asserted by the Office, Applicant respectfully notes that the assertion by the Office does not address the language recited in Applicant's claim 5 such as "displaying at least a portion," "a request to display all," or "displaying all."

[0025] The Supreme Court requires "some articulated reasoning ... to support the legal conclusion of obviousness." (*KSR v. Teleflex*, 550 U.S. ____; 127 S. Ct. 1727 (2007)) Applicant respectfully submits that a ground of rejection which does not address displaying at least a portion and displaying all of the information contained in the updated metadata fails to provide the requisite articulated reasoning. Accordingly, the Office has failed to set forth objective evidence supporting a *prima facie* case of obviousness of Applicant's claim 5.

Claim 6 is Non-Obvious Over Logan in view of Safadi in view of Knudson

[0026] Claim 6 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Logan in view of Safadi in view of Knudson. Applicant respectfully traverses the rejection.

[0027] Applicant includes elements of claim 6 into independent claim 1 and cancels claim 6 without waiver, prejudice, or disclaimer of the subject matter. Accordingly, the rejection of claim 6 is now moot.

Claims 13-20 Are Non-Obvious Over Barker in view of Lees in view of Kaars and further in view of Safadi

[0028] Claims 13-20 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Barker in view of Lees in view of Kaars and further in view of Safadi. Applicant respectfully traverses the rejection.

Independent Claim 13

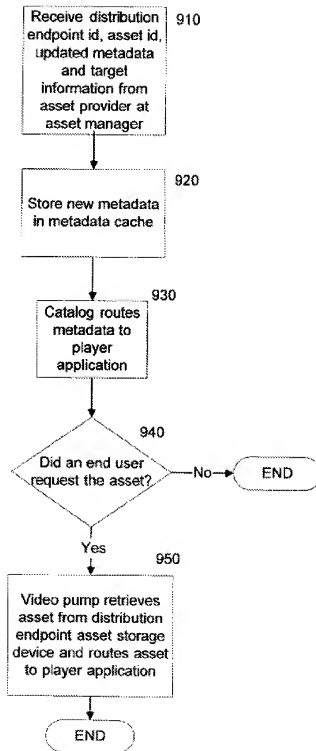
[0029] In light of the amendments presented herein, Applicant submits that the rejection of independent claim 13 is moot. Specifically, the combination of Barker, Lees, Kaars, and Safadi does not teach or suggest the claimed, "displaying a listing of previously recorded programs on a client device... if the updated metadata is more current than the previously received metadata **and** the updated metadata corresponds to a one of the previously recorded programs in the listing displayed on the client device... providing the updated metadata to the client device."

[0030] The Office cites Barker, Fig. 9 steps 910, 920, and 950 as allegedly teaching receiving updated metadata associated with the program content and providing updated metadata to the plurality of client devices. (Office Action dated 10/06/2008, pages 8-9.) Fig. 9 of Barker is reproduced below.

Receive Updated
Metadata Process

FIG. 9

270



[0031] Applicant respectfully submits that Barker is silent as to any connection between the updated metadata which is provided to the client device and a displayed listing of previously recorded programs as recited in Applicant's amended claim 13. Lees discusses "[a] network computer [that] maintains a directory of objects having multi-valued attributes." (Lees, abstract). Karrs discusses "the processing of content and associated metadata." (Karrs, abstract). Safadi discusses "[a] method and apparatus for accurately recording selected events despite the ambiguity of start and end times." (Safadi, abstract). Lees, Karrs, and/or Safadi, either alone or in combination, fail to compensate for this deficiency in Logan.

[0032] Claim 13 also recites in part "if the previously received metadata is more current than updated metadata discarding the updated metadata." Similar elements were previously included in dependent claim 14. Applicant respectfully submits that the Office has not set forth a *prima facie* case of obviousness regarding these claim elements, now included in independent claim 13, at least because the ground of rejection does not address the language of the claim.

[0033] On page 9 of the instant Office Action the Office states that:

As to claim 14, the combination of Barker in view of Lees and Kaars, as analyzed in the previous Office Action provides a system in which the most current version from among a plurality of sets of metadata relating to the same object is selected. Though Kaars teaches that the original metadata is replaced with the most recently received set of metadata, in light of the teachings of Lees it would have been obvious to one of ordinary skill in the art at the time of the invention that the conflict resolution taught by Lees could be used to determine which set of metadata is most current and to replace the currently stored metadata in the metadata cache taught by Barker, if appropriate.

Applicant notes that the "previous Office Action" referred to in the citation above contains nearly identical language. (See Office Action dated 10/06/2008, page 10).

[0034] The ground of rejection does not address at least "discarding the updated metadata," as recited in Applicant's amended claim 13. The Office implicitly states that Barker, Karrs, and Safadi do not teach or suggest the conflict resolution allegedly taught by Lees which can allegedly be used to determine which set of metadata is most current and to replace the **currently stored metadata**. The Supreme Court requires "some articulated reasoning ... to support the legal conclusion of obviousness." (*KSR v. Teleflex*, 550 U.S. ____; 127 S. Ct. 1727 (2007)) Applicant respectfully submits that a ground of rejection which does not address discarding updated metadata fails to provide the requisite articulated reasoning.

[0035] Consequently, the combination of Barker, Lees, Karrs, and Safadi does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant respectfully requests that the rejection of this claim be withdrawn.

Dependent Claims 14-18 and 20

[0036] Applicant includes elements of claim 14 into independent claim 13 and cancels claim 14 without waiver, prejudice, or disclaimer of the subject matter. Accordingly, the rejection of claim 14 is now moot.

[0037] Claims 15-18 and 20 ultimately depend from independent claim 13. As discussed above, claim 13 is patentable over the cited documents. Therefore, claims 15-18 and 20 are also patentable over the cited documents of record for at least their dependency from a patentable base claim. These claims may also be patentable for the additional features that each recites.

Claim 22 is Non-Obvious Over Logan in view of Safadi in view of Lees and further in view of Vasudevan

[0038] Claim 22 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Logan in view of Safadi in view of Lees and further in view of Vasudevan. Applicant respectfully traverses the rejection.

[0039] Claim 22 ultimately depends from independent claim 21. As discussed above, claim 21 is patentable over the combination of Logan, Safadi, and Lees. Vasudevan is directed towards "[t]echniques for doing optimistic constraint checking in a versioned relational database system." (Vasudevan, Abstract). Vasudevan fails to compensate for the deficiencies in Logan, Safadi, and Lees. Therefore, dependent claim 22 is also patentable over the cited documents of record for at least its dependency on a patentable base claim. Additionally, this claim may also be patentable for the additional features that it recites.

Claim 23 is Non-Obvious Over Logan in view of Safadi in view of Lees and further in view of Marsh

[0040] Claim 23 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Logan in view of Safadi in view of Lees and further in view of Marsh. Applicant respectfully traverses the rejection.

[0041] Applicant includes elements of claim 23 into independent claim 21 and cancels claim 23 without waiver, prejudice, or disclaimer of the subject matter. Accordingly, the rejection of claim 23 is now moot.

Claim 24 is Non-Obvious Over Logan in view of Safadi in view of Lees in view of Marsh and further in view of Knudson

[0042] Claim 24 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Logan in view of Safadi in view of Lees in view of Marsh and further in view of Knudson. Applicant respectfully traverses the rejection.

[0043] Applicant includes elements of claim 24 into independent claim 21 and cancels claim 24 without waiver, prejudice, or disclaimer of the subject matter. Accordingly, the rejection of claim 24 is now moot.

Claim 28 is Non-Obvious Over Logan in view of Safadi in view of Lees and further in view of Barker

[0044] Claim 28 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Logan in view of Safadi in view of Lees and further in view of Barker. Applicant respectfully traverses the rejection.

[0045] Applicant includes elements of claim 28 into independent claim 25 and cancels claim 28 without waiver, prejudice, or disclaimer of the subject matter. Accordingly, the rejection of claim 28 is now moot.

[0046] Applicant respectfully submits that the cited references do not render the claimed subject matter obvious and that the claimed subject matter, is therefore, patentably distinguishable over the cited references. For all of these reasons, Applicant respectfully requests withdrawal of the §103(a) rejection of these claims.

Conclusion

[0047] Applicant submits that all pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the Examiner is urged to contact the undersigned representative for the Applicant before issuing a subsequent Action.

Respectfully Submitted,

Lee & Hayes, PLLC
Representative for Applicant

_____/Benjamin Keim 59,217/

Dated: July 2, 2009

Benjamin A. Keim (benjamink@leehayes.com; 509-944-4748)
Registration No. 59217

Reviewer/Supervisor: Shirley L. Anderson (shirley@leehayes.com; 509-944-4758)
Registration No. 57763